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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Cuba submitted by the Special Rapporteur, Mr. Carl-Johan Groth, in accordance with Commission resolution 1997/62

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Introduction

1. At its fifty-third session, the Commission on Human Rights adopted resolution 1997/62, of 16 April 1997, entitled "Human Rights in Cuba", in which the Commission decided to extend for another year the mandate conferred on the Special Rapporteur by its resolution 1992/61 of 3 March 1992. Resolution 1997/62 was approved by the Economic and Social Council in its decision 1997/271 of 22 July 1997.

2. In resolution 1997/62, the Commission requested the Special Rapporteur to submit an interim report to the General Assembly at its fifty-second session, and to report to the Commission at its fifty-fourth session. This report is in response to that request and is an update of the report submitted to the General Assembly (A/52/479, annex).

3. In the same resolution, the Commission called upon the Government of Cuba to give the Special Rapporteur the opportunity to carry out his mandate in full, in particular by allowing him to visit Cuba, and requested the Special Rapporteur to maintain direct contacts with the Government and citizens of Cuba. Pursuant to that request, the Special Rapporteur once again requested the cooperation of the Government in order to fulfil his mandate, asking, inter alia, for an opportunity to visit the country. That request, like previous ones made regularly since his appointment, has remained unanswered.

4. Faced with the lack of cooperation by the Government, the Special Rapporteur has continued to base his report on information from non-governmental sources, much of it originating in Cuba and disseminated by groups of Cuban exiles in the United States of America, whose efforts to obtain it the Special Rapporteur finds commendable. As usual, the Special Rapporteur met with several of these groups, as well as with persons who had recently left Cuba and were living as exiles in the United States. These meetings took place for the most part at United Nations Headquarters in New York from 26 to 28 August 1997. The Special Rapporteur also travelled to Washington, D.C., on 25 August 1997, where he met mostly with academics and congressional staff having a particular interest in subjects related to the human rights situation in Cuba. The Special Rapporteur also received a good deal of information from Amnesty International which he has taken into consideration in drafting this report.

5. At its fifty-second session, the General Assembly adopted resolution 52/143, entitled "Situation of human rights in Cuba", in which it again expressed its concern about continuing violations and urged the Government to ensure, inter alia, freedom of expression and assembly. It also called upon the Government to cooperate with the Special Rapporteur by permitting him access to establish contact with the Government and the citizens of Cuba so that he might fulfil the mandate entrusted to him.

I. NATIONAL CONTEXT

6. There have been two particularly significant political developments in Cuba in the last few months. The first was the holding of the Fifth Communist

Party Congress in October 1997 and the second the holding of elections for deputies to the National Assembly of People's Power and the Provincial Assemblies in January 1998.

7. At the Fifth Congress, debates were held on various national, political and economic issues. On the political front, a document proclaiming socialism and the single party was adopted and, in the economic arena, a resolution was adopted establishing minimum margins for private initiative and stressing the leading role to be played in the reform process by State enterprises which must demonstrate that they are working and viable entities. The document adopted advocated the ratification of socialist principles such as planned economic management and the role of the State as the guarantor of community ownership. It stated that changes would be directed towards maintaining the pre-eminence of socialist State ownership by making State enterprises more efficient than those subject to other forms of ownership as an essential element of socialism.

8. The document also reaffirms the measures adopted by the Government to deal with the grave economic crisis. It states that self-employment will continue in the established legal framework within which it acts as a positive factor for the economy by increasing the supply of goods and services and representing a source of employment. It also permits the dual circulation of currency in Cuba, following the decriminalization of the holding of foreign exchange in 1993, dollar-denominated commercial transactions and the tax-free repatriation of family remittances. It recognizes that this duality has undesirable effects such as distinguishing unearned from other types of income and warns that the inequalities which it creates and the excessive desire for foreign exchange which it unleashes continually result in serious ideological problems. The resolution, on the other hand, confirms the principles of social justice, free education and health care, the right to a secure retirement and others. 1/ In short, the message of the Fifth Congress appears not to have been one of greater political or economic openness, but rather the continuation of recent policies.

9. On 11 January 1998, elections were held for 601 members of the People's National Assembly and 1,192 delegates of Provincial Assemblies, following the elections for Municipal Assemblies in October 1997. One of the main features of the elections was that the two single lists contained one candidate for each seat. Although voters could vote for individual candidates, the authorities announced publicly that this was not recommended and that it would be best to exercise the "combined vote", by voting for all the candidates as a bloc.

10. Although the authorities say that candidates were chosen by the people and that membership of the Communist Party was not an important factor for election, in reality the system established by the Electoral Law of 1992 does not genuinely make it possible for persons opposed to the Government and not looked on favourably by the authorities to compete freely. One of the provisions of the Law is that lists of candidates are drawn up by the Candidature Commissions, made up of representatives of the Cuban Workers' Federation, the Committees for the Defence of the Revolution, the Federation of Cuban Women, the National Small Farmers' Association, the University Students' Federation and the Federation of Secondary School Students. In

proposing candidates, the Commissions must seek the views of any institutions, organizations and labour federations that it deems necessary, as well as of delegates to the Municipal Assemblies. These Assemblies can approve or reject one or all of the proposed candidates, in which case the Candidature Commissions must submit others. The nomination of candidates for election to the Municipal Assemblies is done by nominating assemblies, in which all voters are entitled to propose candidates. In practice, however, these district assemblies are usually organized by the Committees for the Defence of the Revolution or the Communist Party, which makes the selection of an opponent of the regime most unlikely.

11. In addition to the election propaganda put out by the government press media (the only ones allowed in Cuba), members of the Party and of the Committees for the Defence of the Revolution, as well as children outside school hours, made house-to-house calls to persuade people to go and vote, although in theory voting is not compulsory. Furthermore, all the voters know about the candidates is what is contained in the biographical notes distributed by the government press, and candidates are not able to present their own electoral platform. All in all, the electoral process is so tightly controlled that the final phase, i.e. the voting itself, could be dispensed with without the final result being substantially affected.

12. The results announced by the Government showed a 98.35 per cent voter turnout, with the 601 candidates for the National Assembly and the 1,192 candidates for the Provincial Assemblies being elected. Approximately 5.01 per cent of ballots were blank or spoiled and 94.39 per cent of voters opted for the combined vote.

13. In the light of this electoral process, the Special Rapporteur considers it worth reproducing the following comments of Professor Jorge Domínguez, a political analyst specializing in Cuba, regarding the official concept of democracy there:

> "The leaders of State bodies, the Government and the Communist Party of Cuba have stressed that Cuba has a democratic political system ... This concept of democracy in Cuba consists to a large extent of three main concepts.
>
> Firstly, the official concept of democracy in Cuba is based on the rights of the majority, and not on the rights of the individual. Mass participation in politics is crucial for this concept of democracy, but ideas such as 'the opposition' or the importance of political 'competition' as defining criteria of democracy are meaningless. According to this official concept, therefore, the majority can exercise a 'dictatorship over the minority in order to achieve the ends desired by the majority and the political system can continue to be described as democratic'.
>
> ... Without electoral competition, how is it actually possible to know who has the governing majority or which policies have the necessary support? Majority input is apparent only in the freedom of the electorate to actually select or reject government candidates and programmes.

Secondly, the official concept of democracy in Cuba emphasizes the consequences of public action and disregards procedures which identify the persons governing. Democracy is then measured by its achievements in promoting the objectives of the majority and not by the rules for the election of candidates. This emphasis on consequences focuses attention on ownership, distribution, welfare and similar issues. Only a political system which produces democratic results deserves to be called democratic.

... Democracy must be seen as a guarantee that the results of elections cannot be known beforehand. Uncertainty is a characteristic of political democracy because democracy exists only when the majority actually has the option to be governed by someone other than those who are already in power. The concept of democracy requires free and competitive elections which can actually result in a change in the governing group. To be considered democratic, it is not enough for a State to be benevolent.

Thirdly, the official concept of democracy has also stressed that the preferable method for taking decisions in Cuba is by 'consensus' and not through other procedures which necessarily create majorities and minorities. 'Meetingitis' - frequent and interminable meetings - and intolerance of dissent are consequences of this approach.

The official concept of democracy holds that only unity can guarantee sovereignty and that sovereignty is essential to guarantee a true democracy ... Is sovereignty in danger in Cuba? Sovereignty will be in danger if the country deliberately cuts itself off from an international community ... which places increasing emphasis on respect for human rights, on democracy based on full respect for political and social majorities and minorities and on competitive elections." 2/

II. DEVELOPMENTS IN THE HUMAN RIGHTS SITUATION

14. The information received by the Special Rapporteur in 1997 suggests a continuation of the pattern of human rights abuses set in previous years, particularly in 1996. There was no change with regard to the rights to non-discrimination on political grounds, freedom of expression, assembly and association that might indicate greater respect for and a readiness to talk to all those who, in a peaceful way, are critical of the current political, labour or educational situation, inter alia. At the same time, groups continue to spring up, as individuals who disagree with the existing system form their own associations in which possible alternative solutions to the problems currently facing Cuban society are discussed; some groups have managed to bring their conclusions to the attention of the authorities with a view to prompting a dialogue. The latter, however, continue to show no sign of openness to such a dialogue, but maintain a repressive attitude most of the time. This repressive attitude is also the reason why the above-mentioned groups are weak, since there is virtually no way to strengthen them. By way of example, one need only recall the repression unleashed in 1996 against the coalition known as Concilio Cubano, which resulted in its disbandment.

15. Nor have any changes been observed in the other areas dealt with by the Special Rapporteur in previous reports, such as the lack of independence in the administration of justice, prison conditions, the lack of trade union freedoms or the precarious working conditions caused by the economic situation. On these matters, therefore, the Special Rapporteur refers the reader chiefly to the contents of his previous reports.

A. Right to non-discrimination on political grounds and to freedom of expression and association

16. Since his last report to the Commission on Human Rights, the Special Rapporteur has received information about many cases of individuals who have been subjected to harassment by the authorities, particularly by State security bodies, for reasons linked to the peaceful exercise of the right to freedom of expression and association. The majority of these individuals have ties to groups with political, trade union, human rights or similar leanings whose requests to be legalized are systematically left unanswered by the authorities. Some of the cases brought to the Special Rapporteur's attention are described below.

1. Members of human rights groups

17. Daula Carpio Matos, of the Partido pro Derechos Humanos in Villa Clara, was arrested on 24 February 1997 and held for 48 hours at the State Security Headquarters in Villa Clara. She was arrested again on 31 July and was held in the provincial police training unit until 7 August, when she was sent to her home with orders not to leave it until she had been tried. On 9 October, she was arrested at her house in Santa Clara and taken to Guamajal women's prison. She was later released pending trial. She was charged with having verbally abused a prison doctor during the trial of a member of her party in July, which she had attended as a spectator. At her trial on 29 October, she was found guilty of assault and sentenced to 16 months' correctional labour with imprisonment. On 16 December, when she failed to report to her work centre, she was arrested at her home and taken to Guamajal prison.

18. On the day that Daula Carpio was arrested, a group of members of her party who were meeting in a house in Santa Clara began a protest hunger strike. A crowd gathered in front of the house and shouted insults at the hunger strikers. On 14 October, the police entered the house and, at different times, arrested 12 persons including Daula Carpio Mata's mother, sister and 15-year-old daughter, Jenny Julia Godoy Carpio, who was taken to the juvenile rehabilitation centre in Santa Clara and released on 20 October. Ten of these persons appeared before the Santa Clara Municipal Court charged with criminal conspiracy and disobedience. All were found guilty and sentenced as follows: Iván Lema Romero, Roxana Carpio Mata and José Miguel Llera Benítez were sentenced to 18 months' imprisonment; Danilo Santos Méndez, Vicente García Ramos and José Antonio Alvarado Almeida were sentenced to 18 months' correctional labour with imprisonment; Lilian Meneses Martínez and Ileana Peñalver Duque were sentenced to 18 months' correctional labour without imprisonment, meaning that they must report to a farm during the day but can return home at night; Maria Felicia Mata Machado and Arelis Fleites Méndez were sentenced to 18 months' restricted freedom and a fine. In January 1998, some of them were still on hunger strike.

19. Rodolfo Conesa Vilomar and Jesús Gutiérrez Vilomar, both members of the Partido pro Derechos Humanos in Sancti Spiritus Province, were arrested on 24 February 1997 and held for 72 hours at State Security headquarters in that province. Anaida Iraina Corzo Aguiar, who belonged to the Partido pro Derechos Humanos in Villa Clara, was arrested on 21 February and held for 48 hours at State Security headquarters in Villa Clara.

20. Mayte Moya Gómez, of the Cienfuegos branch of the Partido pro Derechos Humanos, was held from 21 to 24 February in State Security in Cienfuegos; she was subsequently arrested again, on 3 March, and held for 24 hours in the same place. Carlos Suárez, of the Partido pro Derechos Humanos in the town of San Juan y Martínez, Pinar del Río Province, was arrested on 28 January and held for 24 hours at State Security headquarters in San Juan y Martínez.

21. Ricardo de Armas Hernández, a member of the Partido pro Derechos Humanos in Matanzas Province, was arrested on 28 February 1997 and held for 24 hours; he was subsequently held at State Security provincial headquarters for several hours on 14 March. On 19 March he was tried for contempt of the National Revolutionary Police (PNR) and sentenced to nine months' imprisonment.

22. Lorenzo Páez Núñez and Dagoberto Vega Jaime, of the José de la Luz y Caballero Non-governmental Centre for Human Rights, were arrested on 10 July 1997 in Artemisa, Havana, and tried on the following day, without legal assistance, by a municipal court. They were sentenced to 18 months' and one year's imprisonment respectively for the crimes of contempt and defamation, and were transferred to Guanajay prison. The charges of contempt appear to be linked to an incident that took place on 25 June. On that day, Lorenzo Páez, who is also an independent journalist, was at the home of another member of the opposition, Santiago Alonso Pérez, having a telephone conversation with a representative of exiles in Miami when police officers arrived to carry out a search. Lorenzo Páez proceeded to tell the person on the telephone what was going on and handed the telephone to one of the policemen, who talked to the person in Miami. The conversation was recorded by the latter and later broadcast by a radio station that transmits to Cuba. Both Lorenzo Páez and Santiago Alonso were arrested on that day and released shortly afterwards. During their trial, the public prosecutor argued that the incident showed that Lorenzo Páez was illegally broadcasting news abroad. It was not made clear, however, why such acts constituted "contempt" or why Dagoberto Vega was accused of that crime when he had taken no part in the incident referred to. The two were also convicted of defamation after having been so accused by a former official of the Ministry of the Interior who had been mentioned by both, in a report transmitted outside Cuba by telephone, as the author of an attack on a group of young people during a party at a sugar mill. Lorenzo Páez is a mathematics teacher who in 1992 was fired from his job at the Mariel Naval Academy for criticizing the Government. He was detained briefly in November 1996, following confiscation by the authorities of documents relating to his activities in the above-mentioned organization.

Members of political groups or groups concerned with the analysis of social conditions

23. Victor Reinaldo Infante Estrada, coordinator of the Unión Cívica Nacional, was sentenced in August 1992 to 13 years' imprisonment on the charge

of revealing secrets concerning the State Security. He allegedly exchanged information with a member of the State Security, also a defendant in the trial, who was said to have supplied the names of State officials reported to have infiltrated the opposition groups. 3/ He was sentenced by the Municipal Court of Matanzas on 21 January 1997 to an additional year of imprisonment for the crime of contempt. While he was in the Combinado del Sur prison in Matanzas, he is alleged to have called a guard who had brutally beaten another prisoner in December 1996 "murderer" in the presence of prison inmates; the following day the prisoner in question committed suicide.

24. Héctor Palacio Ruiz, Chairman of the Democratic Solidarity Party, was arrested on 9 January 1997 and taken first to the Technical Department of Investigations in Havana and then to the Combinado del Este prison. He was sentenced on 4 September to 18 months' imprisonment by a municipal court in Havana for the crime of contempt of President Fidel Castro. The charge was apparently due to comments which Héctor Palacio made to foreign television journalists and in letters sent to foreign Governments criticizing statements by President Castro at the Sixth Ibero-American Summit. He was previously arrested for a short time in February 1996. During the trial, his counsel was reportedly not allowed to introduce a statement by the journalists or the videotape of the interview as evidence.

25. Rafael Fonseca Ochoa, Jesús Rodilis, Yordi García Fornier, Pedro Lantigua and Carlos Torres Alvarez, of the Jóvenes por la Democracia movement, were arrested in Guantánamo Province on 24 February and held for 24 hours at the State Security headquarters in that province.

26. In June, Luis Mario Parés Estrada and Salvador Mesa, of the Partido Democrático 30 de Noviembre in Granma Province, were put under arrest briefly, during which time they were questioned and subjected to threats. Salvador Mesa was previously held from October 1996 to February 1997, when he was finally released without charges.

27. Marcos Lázaro Torres León, of the Partido Democrático 30 de Noviembre, was taken on 26 April 1997 to La Cuevita police station in San Miguel del Padrón and released a few hours later. On 30 April, a State Security official informed him that he was under house arrest, which also lasted several hours. He was arrested again on 9 August and remained for three days at the eleventh police precinct headquarters in San Miguel del Padrón after being threatened with prosecution for being a danger to society.

28. Néstor Rodríguez Lovaina and Radamés García de la Vega, 4/ President and Vice-President respectively of the Jóvenes por la Democracia group, who had been campaigning for reform of the university system, both received sentences of imprisonment and internal banishment in 1996. The first was arrested on 8 April 1997 and sentenced two days later by the Municipal Court of Baracoa, Guantánamo Province, to 18 months' imprisonment for resisting arrest and contempt. He is serving his sentence at the Combinado de Guantánamo prison. His father, Ramón Rodríguez, was intercepted on 28 April by two officers of the National Police in Jobo Dulce village, Baracoa municipality, and taken with his wife to the police station in Cabocú, where he had to submit to a body search and sign an official warning, and where he was threatened with arrest if he continued his activities in defence of his son. Another member

of the same group, Rafael Fonseca Ochoa, a resident of Guantánamo City, was intercepted by an official of the State Security of Baracoa on 13 May when he was preparing to travel to Guantánamo and was taken to Cabocú police station. When subjected to a search he was found to have written material describing the trial of Rodríguez Lovaina. He was warned that so long as he continued his activities with the organization in question he would be kept under strict surveillance by the State Security and could no longer enter Baracoa.

29. Radamés García de la Vega was arrested on 30 April 1997 in Palma Soriano. In June he was sentenced to 18 months' imprisonment for the crime of contempt of the Commander-in-Chief. Another member of Jóvenes por la Democracia, Heriberto Leyva Rodríguez, was arrested on 13 July and remained for several days in the provincial headquarters of the National Police in Palma Soriano, Santiago de Cuba Province. On 22 July he was ordered to pay a fine by the Municipal Court of Palma Soriano for contempt of court, apparently because he had exclaimed in a loud voice at the end of the trial of Radamés García de la Vega: "This is evidence that neither freedom nor democracy exist in Cuba".

30. Reinaldo Alfaro García, of the Democratic Solidarity Party, was arrested on 8 May after assembling a group of mothers of prisoners with a view to submitting to the Assembly of People's Power a petition calling for amnesty for their children; the day before the petition had been broadcast by radio stations in the United States. He had been arrested several times in the preceding weeks. He is being tried on the charge of disseminating false information. He suffers from an affliction of the spinal column, for which he is said not to have received any medication.

31. Alberto Perera Martínez, of the Peace, Progress and Freedom Committee, was arrested on 1 May 1997 by members of the State Security, who came to his home in El Cotorro, Havana, and carried out a search. In August he was still being held at Villa Marista and was being tried on the charge of acts against State security.

32. Lorenzo Pescoso León, Jesús Pérez Gómez of the Peace, Progress and Freedom Committee, and Aguileo Cancio Chon were released on or around 13 June 1997 without being charged. All had been arrested in Havana on 1 May and taken to Villa Marista.

33. Ana María Agramonte Crespo, President of the Movimiento Acción Nacionalista, was arrested on 1 May in Havana and sentenced on 16 May to 18 months' imprisonment by the Municipal Court of Diez de Octubre district on charges of resisting arrest and contempt. She is serving her sentence at the Occidente Women's Prison. During the preceding year, she was subjected to brief arrests and threats on account of her activities as a member of the group mentioned.

34. Julio Grenier, an employee at the Cuban Institute of Independent Economists, had his residence searched by three members of the State Security on 2 July 1997. They confiscated a computer, sheets of blank paper, business cards, a calculator, computer diskettes, a telephone and a typewriter. On the same day another employee of the Institute, Ileana Someillán, also had her residence searched and received threats in the course of the search.

35. Félix Bonne Carcasés, René Gómez Manzanc, Vladimiro Roca Antunes and Marta Beatriz Roque Cabello were arrested in Havana on 16 July, after thorough searches of their homes were made while they watched, and were taken to the Villa Marista detention centre. The four, well-known opposition figures who lost their jobs some years ago, are members of the Grupo de Trabajo de la Disidencia Interna para el Análisis de la Situación Socio-Económica Cubana. Their principal activity is to prepare reports on the socio-political and economic situation. They issued a document in May proposing that voters abstain during the next elections and requesting the Government to reply to various questions concerning the electoral system. In June they issued another document entitled "The mother country belongs to us all", which was drawn up in response to the draft of the official document for the Fifth Communist Party Congress, to be held in October 1997.

36. Because of the concern expressed by foreign Governments at the four arrests, the Ministry of Foreign Affairs explained that the persons concerned had been engaged during the preceding weeks in intensive activities aimed at subverting the judicial and constitutional order, had attempted to obstruct the holding of local elections by organizing a boycott, had disseminated false information about the Cuban economy with the aim of discouraging foreign investment in Cuba, were receiving logistical support from the Interests Section of the United States Government in Havana, and were working with leaders of terrorist groups based in the United States. During the following months, they were transferred to various prisons throughout the country: Vladimiro Roca to Ariza, in Cienfuegos; René Gómez to Agüiza, in Matanzas; and Félix Bonne to Guanajay, Havana Province.

37. Other persons associated with them, including Odilia Valdés Collazo, Ileana Someillán, Rafael García, Horacio Casanova, Rubén Martínez, Nancy Gutiérrez and Alfredo Ruiz, reportedly had their homes searched in July and August and were detained for several hours, during which time they were threatened.

38. José Luis Cabeza and Maria Magdalena Dorta, of the Movimiento 24 de febrero, were arrested on 26 July 1997 and released 72 hours later to await trial on charges of contempt and disseminating enemy propaganda, respectively.

39. Maritza Lugo Fernández, Vice-Chairman of the Partido Democrático 30 de Noviembre, was arrested on 15 August 1997, taken first to the eleventh police precinct headquarters in San Miguel del Padrón and later transferred to the Occidente Women's Prison. She was accused of trying to bribe a guard at Prison No. 1580 in Havana to give medicine and a tape recorder to a prisoner. On 5 September she was sentenced to two years' restriction of liberty. She had already been harassed in the past, 5/ on 15, 18 and 19 April 1997, when she was interrogated at the 100 y Aldabó Technical Department of Investigations in Havana.

40. The lawyer Leonel Morejón Almagro, of the Cuban National Alliance, has repeatedly been pressured to leave the country since being released in early 1997. 6/ On 19 August his wife, Zohairis Aguilar Callejas, was arrested after helping draft a document entitled "Declaration of the Cuban National Alliance" addressed to the Chairman of the National Assembly of People's

Power. That document requested the authorities to organize a plebiscite for reform of the Constitution to allow freedom of thought and association, a multi-party system and direct elections by secret ballot. The other 11 signatories of the declaration also received visits from security agents and were threatened with long prison sentences.

3. Members of trade union groups

41. Rafael García Suárez, a member of the Confederación de Trabajadores Democráticos de Cuba (CTDC) was arrested on 24 February and held for 24 hours in the sixth police precinct in Havana. Gustavo Toirac González, Rafael García Suárez and Ramón González Fonseca were arrested on 26 April in San José de las Lajas, Havana Province; they were taken to a police station, questioned for several hours and forbidden to return to that area. Gustavo Toirac and Ramón González Fonseca were also arrested on 24 February and held for 48 hours in the sixth police precinct.

42. José Orlando González Bridón, President of CTDC, was arrested in the sixth police precinct on 6 February 1997 and held for six hours. He was placed under arrest again on 19 February for eight hours and on 21 February he was once again arrested and held for four days in the sixth precinct. On 31 May he was beaten up after being found in the home of an independent journalist by members of the national vigilance and protection system who broke into the house and also beat up other members of the family.

43. Vicente Escobar Rabeiro and Pedro Pablo Alvarez Ramos, of the Consejo Unitario de Trabajadores Cubanos in Havana, were arrested on 26 January, questioned for several hours and issued a written warning. On 24 February security agents took up positions outside their homes and prevented them from leaving; this happened again on 30 April. Vicente Escobar was arrested again on 12 June. Other council members also experienced similar incidents. The home of Gladys Linares Blanco was stoned on 21 February and 2 March; Gilberto Figueroa Alvares and Raúl Rodríguez Blanco were arrested and questioned on 20 June and Marcial Rodríguez Armenteros on 23 June.

44. Manuel Antonio Brito López, a member of the Independent Workers Union and the Consejo Unitario de Trabajadores Cubanos was summoned to the Castillejo police station in Central Havana on 12 July, where two police officers questioned him for several hours. In addition, he was ordered not to leave his neighbourhood until after 6 August, the date on which the World Youth Festival was to end.

Independent journalists

45. The members of the foreign press accredited in the country expressed their concern on learning that a code of conduct existed for foreign journalists in Cuba. That code had apparently entered into force on 21 February 1997, but the authorities did not reveal its existence until May, after which some correspondents were able to obtain a copy of it through unofficial channels. The code requires that accredited journalists always carry out their work with objectivity, ensuring that all facts are accurate, in accordance with the ethical principles that govern the profession of journalism. If they fail to do so, the code stipulates that they run the risk

of being reprimanded by the Cuban International Press Centre or losing their accreditation. It also stipulates that all Cuban citizens working for a foreign press office must be hired through a State employment agency, with the exception of those who are providing their services on a cooperative basis. The code also allows the authorities to request samples of a journalist's work as a prerequisite for being reaccredited at the beginning of the year.

46. The Director of the International Press Centre pointed out that the code did not reflect a tightening of the Cuban authorities' policy towards the foreign press but simply formalized what was already current practice. The InterAmerican Press Association publicly expressed its disapproval of such measures which it described as a way of pressuring journalists to engage in self-censorship by providing for sanctions on the basis of ambiguous but ostensibly acceptable principles such as ethics, objectivity, rigour and professionalism.

47. At the same time systematic harassment of independent journalists who belonged to news agencies they themselves had created in the capital and several provinces continued with a view to preventing them from disseminating information outside official press channels. Most of their information is sent outside the country. The number of such agencies and of their correspondents has grown since 1993, when two were barely functioning, to no fewer than eight in 1997. The adoption in December 1996 of Act No. 80 Reaffirming the Dignity and Sovereignty of Cuba 7/ seems to have aggravated the situation for independent journalists, since article 8 of the Act reads: "Any form of cooperation, direct or indirect, which facilitates implementation of the Helms-Burton Act is declared to be illegal". Some of the acts deemed to be collaboration are:

- Seeking information from or providing information to any representative of the Government of the United States of America or any other person in order for that information to be used directly or indirectly for the possible implementation of the Helms-Burton Act, or helping another person to seek or provide such information;

- Soliciting, receiving, accepting, facilitating the distribution of or benefiting in any way from financial, material or other resources from the Government of the United States of America or provided by it through its representatives or through any other channels, if the use of those materials would contribute to the implementation of the Helms-Burton Act;

- Distributing, disseminating or assisting in the distribution of information, publications, documents or propaganda from the Government of the United States of America, its agencies or dependencies or any other source in order to facilitate implementation of the Helms-Burton Act;

- Cooperating in any way with radio or television stations or any other information and propaganda media for the purpose of facilitating implementation of the Helms-Burton Act.

48. Many of the journalists harassed during 1997 were accused of violating the Act during questioning by the police, during public criticism sessions, or when receiving warnings from members of the Committees for the Defence of the Revolution.

49. Following are some cases of harassment and arrest which occurred in 1997 and which were brought to the attention of the Special Rapporteur:

50. Tania Quintero and José Antonio González from the CubaPress agency, were arrested on 21 January upon leaving the Czech Embassy in Havana; they were held for 24 and 32 hours respectively in the fifth police precinct in Zapata. Iván Hernández Carrillo, of the Partido Solidaridad Democrática, and Félix Navarro Rodriguez, from the Llanura officé of the Independent Press Office of Cuba (BPIC), were arrested on 24 February and held for 72 hours at the Matanzas State Security headquarters.

51. Joaquín Torres Alvarez, Director of HabanaPress, was physically assaulted outside his home in Havana on 31 May by four individuals, at least two of whom were members of the Communist Party; his attackers also threatened and insulted him for having sent news abroad. Joaquín Torres later filed a formal complaint with the police. In 1996 he was held for a short time on six different occasions, and in February 1997 he was threatened by police officers.

52. Héctor Peraza Linares of HabanaPress was arrested on 23 June at his home in Pinar del Río along with his wife, Carmen Fernández de Lara, who was held for an entire day at the State Security Department. Mr. Linares' computer, typewriter, tape recorder, books and papers were also confiscated. Héctor Peraza had already been arrested at least three times previously because of his journalistic activities and had been ordered by the police not to leave Pinar del Río. He was released on 23 September 1997.

53. Mirta Leiva López Chávez, of Agencia Prensa Independiente (APIC), and her husband, Pascual Escalona Naranjo, were arrested when returning from Havana to their home in Manzanillo, Granma Province. They were released the next day. They were arrested again on 9 July and threatened with prosecution as a public danger. Pascual Escalona Naranjo was arrested for a third time on 22 July, tried two days later by a municipal court and sentenced to one year's imprisonment as a public danger for refusing to seek employment.

54. Ricardo González Alfonso of CubaPress was arrested at his home in Havana on 16 October and taken to Siboney territorial police station in Playa. He had recently been distributing reports of alleged human rights violations in Santa Clara. He was released on 18 October. During that time, he was warned that, if he did not stop reporting for CubaPress, he would have to choose between imprisonment and exile.

55. Ana Luisa López Baeza of CubaPress was subjected to an act of repudiation at her home in Havana on 10 February; on 1 July, her 22-year-old daughter was detained briefly and warned that her mother would be imprisoned if she continued her journalistic activities. Rafaela Lasalle of OrientePress was forced to renounce her activities at her home in Santiago de Cuba on 31 May; on 9 August, she was questioned at State Security headquarters in

Versalles. Juan Carlos Céspedes of CubaPress was arrested on 12 June and held for six days. Nicolás Rosario Rosabal, from the Independent Press Office in Santiago de Cuba was subjected to an act of repudiation on 21 February, was arrested on 24 February and held for an entire day at State Security headquarters; he was also arrested on 5 July and released four days later. Edel José García Díaz, of the Centro Norte del País agency, near Caibarién, Villa Clara Province, was subjected to an act of repudiation at home during the month of July; in the preceding months he had been threatened and physically assaulted. Luís López Prendes of BPIC was arrested in Havana on 16 July, released on 18 July, arrested again on 19 July and released on 6 August. Lázaro Lazo of the Nueva Prensa agency and Rafael Alberto Cruz Lima of the Patria agency were arrested on 22 July at the former's home in Havana; Cruz Lima was banished to Ciego de Ávila, since he was already subject to an order prohibiting him from leaving that province; on 18 August, he was arrested in Ciego de Ávila. William Cortés, a CubaPress correspondent in Pinar del Río, was arrested on 28 July. Odalis Curbelo Sánchez, a CubaPress correspondent in Pinar del Río, was held from 31 July to 6 August. Raúl Rivero Castañeda, the director of CubaPress, was arrested on 12 August in Havana and released on 15 August after being warned that he must give up journalism or leave the country; he was also arrested and held for several hours on 28 July and was subjected to an act of repudiation at his home on 11 August. Efrén Martínez Pulgarón of CubaPress was arrested on 13 August in San Luis, Pinar del Río. Marvin Hernández Monzón of CubaPress was arrested on 17 August in Havana. Olances Nogueras was forced to leave the country in August, having been subjected since 1995 to many forms of coercion, physical attacks and temporary detentions.

Other cases

56. Roberto Gonzáles Tibanear was arrested on 26 November 1996 after voicing his opposition to the Government in response to a question from a foreign journalist outside the Spanish Embassy in Havana. He was detained for three days at the first police precinct in Old Havana before being transferred to the Technical Department of Investigation. Charged with disorderly conduct, he was transferred to the El Pitirre prison on 4 December 1996. On 27 December, he was tried and sentenced to nine months' imprisonment for contempt. As nine months had already elapsed since his arrest, he was released.

57. Dessy Mendoza Rivero, a doctor, was arrested in Santiago de Cuba on 25 June 1997 and taken to the State Security premises in Versalles and from there to Aguadores prison, also in Santiago de Cuba. He was arrested in connection with his criticism of the authorities for covering up the real extent of the dengue epidemic which had broken out in the east of the country and for not taking adequate measures to bring it under control. His statements were circulated by the foreign press. He was tried on 18 November on charges of enemy propaganda, for which the prosection was seeking a sentence of several years' imprisonment. Doctor Mendoza tried to leave the country in 1994, returning later from the Guantanamo naval base. Since then, he has not been allowed to practise medicine.

B. The situation in the prisons

58. The information received by the Special Rapporteur indicates that there has been no improvement in prison conditions: the same deplorable situation he described in previous reports persists (see E/CN.4/1996/53, para. 20). Suffice it to cite as a case in point recent reports concerning the Combinado Sur prison in Matanzas Province, where the main problems are described in these terms: inmates are obliged to find pieces of plastic to avoid getting wet while they sleep because the buildings are in such disrepair that rainwater accumulated on the roof pours through; countless rats live in the areas where food is stored and prepared; mealtimes in the cafeteria are unbearable because of the huge quantity of flies; the overcrowding sometimes reaches twice the capacity of the facility because the cells, designed for three, often hold six; there is not enough food and it is deficient in vitamins and protein, most meals consisting of tasteless soups and breakfasts of hot water; there is a shortage of medicines and medical assistance is systematically denied. This situation has led to the spread of infections and epidemics of illnesses like scabies and amoebic dysentery, and nearly all the prisoners are underweight. All this is compounded by cruel and degrading treatment, in the form of brutal beatings and a lack of respect shown in the use of obscene words, shouts, shoves and kicks. Inmates are subject to constant searches and their mail is opened as a matter of course.

59. The Special Rapporteur also received information about prisoners whose state of health is disquieting because they are not receiving adequate medical attention. Among these are the following, who are serving sentences for offences that can be considered political:

(a) José Angel Carrasco Velar, an economist and engineer and a former official of the government economic planning office (JUCEPLAN), was arrested on 10 March 1992 and sentenced to seven years' imprisonment for spreading enemy propaganda. He was accused of helping to produce an underground paper containing materials critical of the system and of having questioned, during an interview given to a French newspaper, the Government's ability to lead the country. He is serving his sentence in the Combinado del Este prison; he has lost much weight and his state of health is precarious;

(b) Juan Carlos Castillo Pasto was arrested on 8 February 1993 and sentenced to 10 years' imprisonment for spreading enemy propaganda and for putting up anti-government posters and writing anti-government graffiti on buildings. He is serving his sentence in La Caoba prison in Palma Soriano, Santiago de Cuba Province. He has heart trouble;

(c) Jesús Chamber Ramírez was arrested on 14 February 1992 for spreading enemy propaganda and for publicly criticizing the system. He is being held in the Kilo 8 maximum-security prison in Camagüey Province. He has been kept in solitary confinement in punishment cells a number of times for disciplinary reasons, having been in one such cell since January 1996. He has on several occasions been beaten. In September 1996 he was condemned to an additional four years' imprisonment for "contempt of the Commander-in-Chief" for having refused to shout "Viva Fidel Castro". He suffers from a duodenal ulcer, alopecia and severe weight loss;

(d) Omar del Pozo Marrero, a doctor and President of the Unión Cívica Nacional, was arrested on 19 April 1992 and sentenced to 15 years' imprisonment for "divulging State security secrets".8/ He was placed in punishment cells on various occasions, remaining in one of them for four months. He is suffering from, among other problems, a stomach ulcer and cardiac and renal insufficiency. He has lost his hair and several teeth because of malnutrition, as well as a great deal of weight;

(e) Luis Gustavo Domínguez Gutiérrez, a member of the Comité Paz, Progreso y Libertad, was arrested on 21 September 1992 after writing letters to the authorities renouncing the medals he had received for his participation in the war in Angola. When the police searched his home they found writings questioning Cuban socialism. He was sentenced to seven years' imprisonment for spreading enemy propaganda and for contempt, and is serving his sentence in the provincial prison of Camagüey. On 12 February 1997 he was beaten by several guards when he came to the defence of another inmate who was about to be beaten. He suffers from a gastric ulcer and hypertension and has lost a great deal of weight;

(f) Adolfo Durán Figueredo was arrested on 15 September 1992 and given a nine-year sentence for spreading enemy propaganda, rebellion and other acts against State security. He was accused, together with 11 others, of belonging to an unofficial political group known as the Seguidores de Ochoa, holding clandestine meetings and printing and distributing anti-government propaganda. He is serving his sentence in the Kilo 8 special maximum-security prison in Camagüey and has spent time in solitary confinement. He has a duodenal ulcer. In April he was severely beaten by one of the prison guards; 9/

(g) Félix Tiburcio Ramírez, aged 65, sentenced in 1992 to eight years' imprisonment for spreading enemy propaganda, is being held in Las Mangas prison in Granma Province. He has advanced optical neuritis, stomach disorders and dermatitis, and is not receiving proper medical care.

60. Other reports received describe the ill-treatment to which some prisoners have been subjected. Jorge Luís García Pérez, Néstor Rodríguez Lobaina and Francisco Díaz Echemendia, who are serving sentences in Combinado prison, Guantánamo, for offences with political connotations, suffered severe beatings at the hands of prison guards in September 1997. In October, they were reportedly being held in punishment cells. One relative was told that this was because of breaches of discipline such as failing to stand up when guards passed by. In August 1997, these three prisoners organized a group called the "Pedro Luis Boitel Political Praesidium" in the prison.

III. COMMENTS ON VARIOUS ASPECTS OF HUMAN RIGHTS IN CUBA MADE RECENTLY BY BODIES OF THE UNITED NATIONS SYSTEM

61. Various United Nations bodies whose task it is to monitor the implementation of human rights instruments by the States parties have considered reports submitted by the Government of Cuba in their respective fields. After considering these reports, each body made comments, excerpts from which are reproduced below. This makes it possible to have the viewpoint of bodies which, unlike the Special Rapporteur, enjoy the cooperation of the

Government of Cuba. Furthermore, these bodies delve into issues not unrelated to the main themes with which the Special Rapporteur is concerned, giving an expert assessment of them.

A. Committee on the Elimination of Discrimination against Women

62. The Committee considered the periodic report of Cuba (CEDAW/C/CUB/2-3) at its fifteenth session, 10/ held from 15 January to 2 February 1996. The following paragraphs are excerpted from the Committee's concluding comments:

"Positive aspects

208. The Committee noted that Cuban legislation was progressive in its provisions affirming gender equality and that discrimination was punishable under the law.

209. The Committee noted with satisfaction the Government support for the work of the Cuban Women's Federation, which represented 90 per cent of the women of Cuba.

210. The Committee also noted with satisfaction the significant increase in the number of women in all fields and levels of education, in the labour force in a wide variety of occupations, including science and technology, medicine, sports, etc., and, in particular, in policy-making at local, national and international levels.

211. The steady decline in maternal mortality, owing largely to improved care for pregnant women and better care for children in their early years, was noted by the Committee. It was also noted that deciding the number and spacing of one's children had been proclaimed a fundamental human right.

212. The Committee noted that drop-out rates for girls had been declining, and adult education programmes had been developed for women.

213. The Committee noted with satisfaction that the Government had made the adjustments necessary to ensure that the effects of the drastic drop in economic growth were not felt especially or solely by women.

Principal subjects of concern

214. ... The Committee was concerned about the elimination of certain areas of progress for women owing to the embargo and the subsequent economic constraints.

215. The Committee observed that gender stereotypes persist despite the high levels of school enrolment, and domestic work and child care continue to be the responsibility of women.

216. The Committee pointed out the need to expand the participation of women at the highest levels of political power.

217. The Committee noted that, owing to the fact that women traditionally were less well paid, there was indirect discrimination in women's wages. Concern was expressed about the lack of information on women in trade unions.

218. The Committee noted with some scepticism that domestic violence was reported to be infrequent and that it was not considered to be a social problem.

219. The Committee also noted that the economic situation in Cuba resulting from the economic embargo had produced a serious shortage of essential products like medicines and contraceptive devices, which had been problematic for the population as a whole, and for women in particular.

220. The Committee was concerned about the re-emergence of prostitution in Cuba, which was linked to the growth in tourism and to the economic problems facing women.

Suggestions and recommendations

221. The Committee recommended that disaggregated data be collected concerning the number of complaints regarding discrimination.

222. Surveys and studies should be undertaken to determine the extent and impact of violence against women, in particular domestic violence, even if unreported, and to take steps in accordance with general recommendation 19.

223. Successful programmes to combat sexist prejudices and stereotyping, such as 'Mujeres', 'Muchachas' and 'Perfil F', should be revived as soon as possible, since they helped to address the attitudes of both men and women that need to be changed, particularly with regard to the need to share in the care and education of children in keeping with general recommendation 21.

224. The Government should do everything possible to meet the demand for contraceptives. Special information programmes relating to sexually transmitted diseases, especially HIV/AIDS, should be strengthened for young girls, particularly those engaged in prostitution, in keeping with general recommendation 15.

225. Every effort should be made to further check the re-emergence of prostitution, to offer more and better job opportunities to women who engaged in prostitution, and not to place the sole responsibility for prostitution on the women themselves. Stronger measures must be adopted to prosecute procurers and clients who violated those women's rights.

226. An empirical study was needed to determine whether women were paid the same wages as men for work of equal value and to document occupational segregation and its relationship to income.

227. The Committee asked that more information be given in the next periodic report on women in the labour market and their income situation. The Committee would like to receive more information on the situation of women in trade unions in subsequent reports.

228. The Committee pointed out the need to expand the participation of women at the highest levels of political power, and suggested that efforts be continued to ensure that women have an effective voice in decisions that affected their lives."

B. Committee on the Rights of the Child

63. The Committee considered the report submitted by Cuba under article 44 of the Convention on the Rights of the Child 11/ on 21 and 22 May 1997. The following is an excerpt of the Committee's concluding observations (see CRC/C/15/Add.72):

"B. Positive aspects

3. The Committee notes the historic progress the State party has made in providing services for and advancing the well-being of children, especially in the fields of health and education, which are reflected in the country's socio-economic indicators such as its infant mortality rate and teacher-pupil ratio.

...

C. Factors and difficulties impeding the implementation of the Convention

8. The Committee takes note of the difficulties for the State party in its implementation of the Convention as a result of the dissolution of its traditional economic ties and the intensification of the trade embargo.

D. Principal subjects of concern

...

12. The Committee is further concerned about the lack of an independent mechanism, such as an Ombudsperson, accessible to children to deal with complaints of the violation of their rights and to provide remedies for such violations.

...

14. The Committee is concerned about the inadequacy of measures taken to incorporate education about the principles and provisions of the Convention fully into the training given to professionals working with and for children, including judges, lawyers, law enforcement personnel, teachers, social welfare officers, doctors and other health professionals, as well as personnel working in child-care institutions for children and officials of the central and local administrations.

15. The Committee is concerned about the failure to provide for a minimum age for sexual consent and the absence of harmonization between the age for the completion of compulsory schooling and the minimum age for employment.

16. The Committee is of the view that insufficient measures have been taken to ensure the implementation of the general principles of the Convention in policy, practice and procedures, especially with regard to article 3 (the best interests of the child) and article 12 (respect for the views of the child). The Committee is of the view that the measures taken to ensure respect for the views of the child, in the family and social life, as well as in the context of administrative, social welfare and other procedures affecting and applying to them, are insufficient.

17. The Committee regrets the insufficiency of information provided on the implementation of the civil rights and freedoms of children.

18. It is the view of the Committee that the apparent absence of independent mechanisms for monitoring the situation of children in institutions is a matter of concern.

19. While the Committee takes note of the State party's efforts to deal with the issue of child abuse, including through the establishment of an early warning system for violence against children, it is of the view that these measures are insufficient to fully protect children from such violations. Furthermore, serious concern remains in relation to a child's opportunity to report abuse and other violations of his/her rights in the family, schools or other institutions and to have a complaint taken seriously and responded to effectively.

...

23. With regard to the issues of drug abuse and trafficking, child labour, child prostitution and suicide, the Committee takes note of the information provided by the State party that cases involving children are few and isolated. Nonetheless, it wishes to express its concern that, in light of the considerable social and economic problems facing the country, insufficient efforts are being taken by the State party to devise preventive strategies to ensure that such problems do not become more prevalent, thereby endangering future generations of children.

...

E. Suggestions and recommendations

...

32. In accordance with the Convention, the Committee recommends the harmonization of legislation, including with respect to the age of completion of compulsory schooling and the minimum age for employment.

...

34. The Committee encourages the State party to pursue the efforts required to ensure a holistic approach to the implementation of the Convention, which reaffirms that the rights of the child are indivisible, interdependent and interrelated and that the rights of the child should be addressed in an integrated manner. In this regard, the Committee recommends that special attention be accorded to the implementation of the civil rights and freedoms of children.

35. The Committee recommends that further measures to protect children from abuse and maltreatment be undertaken, in particular through the development of a widespread public information campaign for the prevention of corporal punishment and bullying of children, whether by adults or by other children.

...

37. The Committee recommends that further resources and assistance be devoted to activities in the area of family planning and health education programmes, with a view to addressing the problem of teenage or unwanted pregnancies and changing male sexual behaviour. Issues relating to the incidence and treatment of children infected with or affected by HIV/AIDS and STDs and to reducing the apparent recourse to abortion as a method of family planning should also be the focus of programmatic actions. ...

38. The Committee is of the view that the State party should review, as a matter of urgency, the minimum legal age of sexual consent with a view to raising it.

...

41. While the Committee notes that begging, drug abuse and trafficking and child prostitution are not major problems in the country at present, the Committee recommends that the Government monitor these issues closely with a view to their early prevention.

42. The Committee further recommends that the Criminal Code provide for the protection of children up to the age of 18 from sexual exploitation. The Committee also recommends that further measures be undertaken in order to address matters relating to the sexual exploitation of children, particularly through tourism ...".

C. Committee against Torture

64. The Committee considered the initial report of Cuba (CAT/C/32/Add.2) on Cuba's implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 12/ at its nineteenth session held from 10 to 21 November 1997 and adopted the following conclusions and recommendations (see CAT/C/SR.314):

"A. Introduction

1. The report was submitted on 15 November 1996 nearly within the time limit envisaged by the Convention on the submission of the initial report by the parties following their accession to CAT.

2. The Committee expresses its appreciation to the representatives of the Republic of Cuba on the presentation of their report and the effort made to answer most of the many questions raised by the rapporteur, co-rapporteur and the members of the Committee.

B. Positive aspects

1. The Cuban Constitution commits the state to upholding the dignity of the individual and safeguards the inviolability of the person and his/her home.

2. Cuba acknowledges the universal jurisdiction for the trial of crimes against humanity to which category, many would argue, torture belongs.

3. The provision of the Cuban Labour Code that persons acquitted of criminal offences are entitled to compensation for any period in which they were deprived of their liberty as a result of pre-trial detention is a salutary one.

4. The constitutional prohibition of the use of violence or pressure 'against people to force them to testify' associated with the declaration that statements obtained in breach of this principle are null and void and the holding of those responsible for such violations as liable to punishment is a most welcome one.

5. The criminalization of every form of complicity in crimes against humanity, human dignity and offences laid down in international treaties.

C. Factors and difficulties impeding the application of the Convention

1. The deteriorating economic conditions due, inter alia, to the embargo in force make it difficult for the State party to provide appropriate nutrition and essential medical supplies to prisoners.

D. Subjects of concern

1. The failure to establish a specific crime of torture as required by the Convention leaves a gap in the application of its provisions that is not filled by any of the existing offences directed against violations of the bodily integrity or the dignity of the individual. Moreover, the absence of the specific offence of torture makes difficult the monitoring of the application of the Convention.

2. The report of the Special Rapporteur appointed by the Commission on Human Rights on the human rights situation in Cuba is a matter of great concern to the Committee. To the same effect are reports of NGOs, a fact that intensifies our concern. The information disclosed in the above reports suggests that there occur serious violations of the Convention with regard to arrest, detention, prosecution, access to counsel and imprisonment of individuals, especially persons referred to in the reports as dissidents, and that serious violations occur in prisons affecting the safety, dignity and health of prisoners.

3. The failure of the Cuban authorities to make a response to allegations made in the above reports is an additional subject of concern.

4. Certain nebulous offences, namely 'disrespect', 'resisting authority' and 'enemy propaganda' arouse our concern because of the uncertainty of their constituent elements and the room they provide as of their nature for misuse and abuse.

5. Certain types of punishment primarily directed at the limitation of the liberty of citizens, i.e. internal exile and confinement at home, are matters of great concern to us.

6. The absence of specific training of law enforcement personnel, civil and military, medical personnel and generally personnel involved in the arrest, custody, interrogation, detention and imprisonment about the norms of CAT is a matter of concern, more serious still in view of the absence of the specific crime of torture.

7. The absence of adequate information about the investigation of complaints of torture and other inhuman and degrading treatment and the outcome of any such investigations. In the absence of such information, the Committee cannot make a proper assessment as to whether there is compliance on the part of the State party with the provisions of article 12 of the Convention. Our concerns in these areas are enhanced because of the many complaints made that certain categories of persons referred to in the reports as dissidents are targeted and their fundamental rights violated without having satisfactory means of redress.

8. The absence of satisfactory information as to the rights of victims of torture and other inhuman and degrading treatment to seek redress including satisfactory compensation.

E. Recommendations

1. The criminalization of torture as defined in CAT by the creation of a specific crime or crimes giving effect to every aspect of it.

2. The establishment of a transparent permanent procedure for receiving complaints about torture and other inhuman and degrading treatment or punishment, the prompt examination of such complaints and bringing to justice those responsible.

3. The incorporation into the law of the right of the suspect or detainee to silence at all stages of investigation.

4. The establishment of a system of recurrent review of prisons as required by article 11 of the Convention with a view to improving conditions in prisons.

5. Revision of the rules on the organization of the judicial system in accordance with international instruments on the subject, namely the United Nations guidelines on the independence of the judiciary.

6. The setting up of a comprehensive programme, that should be kept under constant review for educating and training of law enforcement personnel, medical personnel, public officials and everybody involved in the interrogation, custody or treatment of any person arrested, detained or imprisoned.

7. The establishment of a central register containing adequate statistical data about complaints of torture and other inhuman or degrading treatment or punishment, investigation of such complaints, the time within which the investigation is conducted and any prosecution mounted thereafter and its outcome.

8. The establishment of a compensation fund for the compensation of the victims of torture and other prohibited treatment.

9. Allowing into the country human rights NGOs and cooperating with them in the identification of cases of torture and other inhuman and degrading treatment.

10. Urgently addressing complaints about torture and other cruel, inhuman and degrading treatment or punishment raised in NGOs' reports and the reports of the Special Rapporteurs and taking such action as the obligations of the State party under the Convention warrant and reporting to the Committee the outcome of such investigations and any action taken in its next periodic report."

D. Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference

65. In its report to the Conference at its eighty-fifth session in 1997, the Committee made the following comments on the implementation in Cuba of International Labour Organization Convention No. 87 concerning freedom of association and protection of the right to organize: 13/

"Taking into account the context of the single-party system and the single central trade union organization, the Committee emphasizes that the Government should guarantee in law and in practice the right of all workers to establish independent occupational organizations in full freedom, at both the first and central levels, including organizations that are outside any existing trade union structure, if they so wish.

So that the above can be reflected with full clarity in practice, the Committee requests the Covernment, on the occasion of the envisaged revision of the labour legislation, to remove from the Labour Code and other legal texts, the explicit reference to the 'Central Organization of Workers'. The Committee has already suggested that this term could be placed in the plural without initial capital letters."

E. Committee on Freedom of Association, International Labour Organization

66. In its 308th report, at its meeting in November 1997, the Committee issued its definitive report on the complaint against the Government of Cuba presented by the International Confederation of Free Trade Unions (ICFTU) about the refusal to grant legal personality to a trade union organization and the detention of trade unionists. 14/ The report takes account of new allegations received from ICFTU and of the Government reply to them, as follows:

"D. The Committee's conclusions

236. The Committee notes that the questions raised by the complainant relate to the failure to grant official recognition to the Confederation of Democratic Workers of Cuba (CTDC) and to the temporary detention of three officials of that organization.

237. As regards the failure to grant official recognition to the Confederation of Democratic Workers of Cuba (CTDC), the Committee notes that, according to the Government, the application for recognition submitted by the CTDC to the Department of Associations of the Ministry of Justice does not comply with the law on associations and, specifically, does not give any particulars of the persons forming the steering committee, gives no indication of the number of members, does not indicate the State body with which the organization would maintain relations, does not attach the organization's statutes and is not accompanied by the statutory stamp duty. However, the Committee also notes that the Government states that the law in question is not applicable to trade unions, that the right to form independent trade union organizations is recognized both in legislation and in practice and that under section 13 of the Labour Code all workers enjoy the right to associate freely and to establish trade union organizations without previous authorization.

238. Under these circumstances, the Committee requests the Government to guarantee the freedom of the CTDC to operate and to ensure that the authorities refrain from any interference aimed at limiting the exercise by that organization of fundamental rights recognized in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the exercise of human rights related to the exercise of trade union rights, including the right of individuals not to be subjected to measures depriving them of their freedom on grounds related to their legitimate activities.

239. In this case, the Committee refers to the second question left pending, namely, the detention on various days in February 1997 of three CTDC officials (José Orlando González Budon, Gustavo Toirac González and Rafael García Suárez) for calling on social organizations to form an independent workers' parliament. The Committee notes that the Government has not expressly denied either the fact that these detentions took place or the motives for the detentions, merely stating that the persons in question are at liberty and denying that they are trade union officials. Under these circumstances, given that the complainant has given details of the trade union responsibilities in the CTDC of the persons concerned, the Committee reminds the Government, as it has already done in its previous examination of the case [see 305th Report, para. 224], of the principle according to which 'measures depriving trade unionists of their freedom on grounds related to their trade union activity, even where they are merely summoned or questioned for a short period, constitute an obstacle to the exercise of trade union rights'. [See Digest of decisions and principles of the Committee on Freedom of Association, 4th (revised) edition, 1996, para. 77.] The Committee deplores the detentions in question and requests the Government to take measures to ensure that there will be no future recurrence of such measures depriving individuals of their freedom on grounds related to legitimate trade union activity.

The Committee's recommendations

240. In the light of its foregoing conclusions, the Committee invites the Governing Body to approve the following recommendations:

(a) The Committee requests the Government to guarantee the freedom of the Confederation of Democratic Workers of Cuba (CTDC) to operate and to ensure that the authorities refrain from any interference aimed at restricting the exercise by that organization of the fundamental rights recognized in Convention No. 87 and the exercise of the human rights related to the exercise of trade union rights, including the right of individuals not to be subjected to measures depriving them of their freedom on grounds related to their legitimate activities.

(b) Deploring the detention on various days in February 1997 of three CTDC officials (José Orlando González Budon, Gustavo Toirac González and Rafael García Suárez) for calling on social organizations to form an independent workers' parliament, the Committee reminds the Government of the principle according to which 'measures depriving trade unionists of their freedom on grounds related to their trade union activity, even where they are merely summoned or questioned for a short period, constitute an obstacle to the exercise of trade union rights'. The Committee requests the Government to take measures to ensure that there will be no future recurrence of such measures depriving individuals of their freedom on grounds related to legitimate trade union activity."

IV. CONCLUSIONS AND RECOMMENDATIONS

67. Since his most recent report to the Commission on Human Rights, dated 22 January 1997 (E/CN.4/1997/53), the Special Rapporteur has noted no significant changes in the evolution of the human rights situation or in the pattern of repression engaged in by the security forces, which have kept up an intensive campaign of harassment against all those whose attitude differs in any way from the official line. This harassment sometimes leads to trials and prison sentences although, in keeping with the trend first observed in 1996, sentences are not as harsh as in previous years. It must be remembered, however, that lengthy sentences are still being served by persons who were convicted in 1995 and earlier for offences related to the exercise of rights recognized in international human rights instruments. Generally speaking, these persons do not enjoy such benefits as conditional release, and their living conditions inside the prisons, like those of the rest of the prison population, continue to be deplorable. Although the penalties now being imposed are lighter than before, they are being imposed for the same offences - such as contempt and enemy propaganda - as in the past, there having been no amendments to these provisions of the Penal Code.

68. In reviewing the current situation, the Special Rapporteur has found no evidence to suggest a trend towards greater tolerance for behaviour that does not fully conform to the existing system. The document prepared by the Communist Party for the Fifth Party Congress ("The party of unity, democracy and human rights which we defend"), which was held in October 1997, contains statements such as: "Capitalism will never be restored in Cuba because the Revolution will never be defeated. The motherland will live on and will remain socialist"; "The Revolution must remain watchful and increasingly mobilize our people in the struggle for legality and socialist ethics"; "The press, which the Revolution seized from the hands of the oligarchy and placed in the hands of the people so that it could be truly free, has a vital role to play in the ideological struggle. The mass media and educational and cultural institutions are facing their greatest challenge: to ensure that the socialist, patriotic and anti-imperialist ideas and values of the Revolution itself live on among future generations of Cubans".

69. On the other hand, the ongoing United States embargo against Cuba contributes to the rigidity of the system currently in place in the country. The embargo serves as a ready pretext for keeping the population under strict control and for punishing or suppressing in various ways those who work for political change or social space for the individual. It is true, however, that the embargo is largely responsible for the tragic shortage of material goods which characterizes Cuba in the 1990s and has caused the population untold hardships. This situation is viewed with concern by various sectors of United States society. One reflection of this concern is the comprehensive study undertaken by the American Association for World Health, a private non-profit organization, which was published in 1997 under the title Denial of Food and Medicine: The Impact of the United States Embargo on Health and Nutrition in Cuba. 15/ The finding of this study was that the embargo has had major negative repercussions on the population's health and nutrition, specifically in the following areas:

(a) Malnutrition. The outright ban on the sale of American foodstuffs has contributed to serious nutritional deficits, particularly among pregnant women, leading to an increase in low-birth-weight babies. In addition, food shortages were linked to a devastating outbreak of neuropathy cases numbering in the tens of thousands. By one estimate, daily caloric intake dropped 33 per cent between 1989 and 1993;

(b) Water quality. The embargo is severely restricting Cuba's access to water treatment chemicals and spare parts for the island's water supply system. This has led to serious cutbacks in supplies of safe drinking water, which in turn has become a factor in the rising incidence of morbidity and mortality rates from waterborne diseases;

(c) Medicines and equipment. Of the 1,297 medications available in Cuba in 1991, physicians now have access to only 889 of these same medicines, and many of these are available only intermittently. Because most major new drugs are developed by United States pharmaceutical companies, Cuban physicians have access to less than 50 per cent of the new medicines available on the world market. Due to the direct or indirect effects of the embargo, the most routine medical supplies are in short supply or entirely absent from some Cuban clinics;

(d) Medical information. Though information materials have been exempt from the United States trade embargo since 1988, the AAWH study concludes that in practice very little such information goes into Cuba or comes out of the island due to travel restrictions, currency regulations and shipping difficulties. Scientists and citizens of both countries suffer as a result. Paradoxically, the embargo harms some United States citizens by denying them access to the latest advances in Cuban medical research, including such products as meningitis B vaccine, cheaply produced interferon and streptokinase, and an AIDS vaccine currently undergoing clinical trials with human volunteers. 16/

70. Concern over the embargo's impact on the Cuban population has also been expressed in the United States Congress. As a result, a number of Congressmen introduced a bill entitled the Cuban Humanitarian Trade Act of 1997, 17/ whose principal aim is to provide for a waiver of the trade embargo to allow the export of food, medicines and medical equipment to Cuba. Also, on 6 November 1997, a group of senators introduced a bill entitled "The Cuban Women and Children Humanitarian Relief Act" 18/ aimed at removing the legal obstacles currently preventing the President from allowing the sale of food, medicines and medical equipment to Cuba. The Special Rapporteur is following the developments related to this bill with interest and considers its objectives to be commendable. Majority support for the bill would be consistent with the humanitarian tradition and sensitivity so often displayed by the people of the United States.

71. The Special Rapporteur also continues to be concerned by the labour situation. Every society needs free trade unions to maintain a balance in the labour market. In Cuba, this general truth has become more obvious in recent years as money has become an essential requirement for the acquisition of goods and as the number of items available at very low prices through ration books has decreased. Wage levels have therefore assumed much more importance

than in the past. Other recent phenomena, such as unemployment and working conditions in foreign companies, make the establishment of free trade unions even more necessary.

72. In the meantime, self-employment, which is vital for many Cubans, continues to be subject to ideological considerations. These were reflected in the regulations governing self-employment, 19/ which provide that "the Municipal Department of Labour and Social Security shall obtain from the head of the applicant's local community People's Council a recommendation indicating whether or not the applicant can be authorized to be engaged in self-employment, taking into account the activity which he intends to pursue, the need for complementarity with the State's activity and the applicant's social and employment background". In Cuba, this last criterion refers to whether or not the applicant is a "supporter of the Revolution", in other words, whether or not he explicitly supports the Government's policies and participates in political and mass organizations.

73. Finally, the Special Rapporteur followed with interest the visit of Pope John Paul II to Cuba. The Pope's calls for better observance of all human rights and an end to Cuba's international isolation echo the position taken by the Special Rapporteur ever since his appointment.

74. All of these considerations have led the Special Rapporteur to reiterate the following recommendations to the Cuban Government:

(a) Cease persecuting and punishing citizens for reasons relating to the exercise of the freedom of peaceful expression and association;

(b) Take immediate steps to release unconditionally all those persons serving sentences for reasons relating to the exercise of rights recognized in international human rights instruments;

(c) Permit legalization of independent associations, especially those seeking to carry out activities in the political, trade union, professional or human rights field, and allow them to act within the law, but without undue interference on the part of the authorities;

(d) Ratify the principal human rights instruments to which Cuba is not yet a party, in particular, the International Covenant on Civil and Political Rights and its two Optional Protocols (the first on individual communications and the second intended to abolish the death penalty) and the International Covenant on Economic, Social and Cultural Rights;

(e) Delete from penal legislation types of offences by virtue of which citizens may be tried for exercising their right to freedom of expression and association, such as enemy propaganda, unlawful association and possession of illegal printed matter, and restrict the application of other offences which, while not specifically so designed, may, in practice, be used in such a way as to have the same effect, as, for example, the offence of rebellion;

(f) Review in depth the legal provisions relating to the concept of "dangerousness" and the relevant security measures with a view to eliminating all those aspects liable to infringe the rights and freedoms of individuals;

(g) Repeal all those legal provisions which imply discrimination between citizens on political grounds, in particular in the employment and education sectors, and take measures to redress as far as possible abuses committed in this area in the past, for example, by reinstating in their former posts persons who have been dismissed;

(h) Repeal the legal provisions which bar Cuban citizens from exercising their right to enter and leave the country freely without requiring prior administrative authorization. This also implies putting an end to de facto discrimination against persons who, having unsuccessfully tried to settle abroad, have been repatriated. Persons of Cuban origin residing abroad, in particular those who are Cuban nationals, should be able to enjoy the same right once the minimum administrative requirements have been met;

(i) Reform trial law so as to ensure that the guarantees of due process, including the independence of the judiciary, are duly safeguarded, in accordance with the provisions of the relevant international instruments. This reform must in particular include measures to facilitate free and effective access to legal assistance for all persons put on trial, including those charged with offences against State security. Such assistance should be provided by lawyers able to practise their profession with complete independence. Equality between the prosecution and the defence in trials of this nature must also be guaranteed;

(j) The competent national authorities should investigate thoroughly all incidents involving violations of the right to life with a view to determining the facts and, where appropriate, punishing those responsible and providing compensation to the relatives of the victims;

(k) Ensure greater transparency and guarantees in the prison system so as to prevent, to the extent possible, excessive violence and physical and psychological suffering from being inflicted on prisoners. Non-governmental humanitarian organizations and international humanitarian agencies should also be allowed to visit prisons;

(l) Allow international non-governmental human rights organizations to enter the country frequently so that they can evaluate the human rights situation and offer their competence and cooperation with a view to securing improvements.

Notes

1/ Prensa Latina communiqués.

2/ Article published in Cuban Affairs/Asuntos Cubanos, and in the book published by Julián A. Torrente La Isla at the end of the century: Cuba y el futuro de su libertad, 1977, pp. 11-13.

3/ Also sentenced at the same trial to terms of 9 and 15 years' imprisonment, respectively, were Carmen Julia Arias and Omar del Pozo Marrero. The former was released in 1996 on condition that she leave the country, while the second is still in prison.

4/ See E/CN.4/1997/53, para. 15 (b), for background information on these cases.

5/ Ibid., para. 15 (d).

6/ Ibid., para. 11 (b).

7/ Adopted on 24 December 1996 by the National Assembly of People's Power.

8/ The same trial as Víctor Reinaldo Infante Estrada, see above.

9/ These six trials are referred to in a report by Amnesty International dated 28 May 1997 entitled "Medical concern: political prisoners in need of medical attention".

10/ Cuba ratified the Convention on the Elimination of All Forms of Discrimination against Women on 17 July 1980.

11/ Cuba acceded to the Convention on the Rights of the Child on 21 August 1991.

12/ Cuba ratified the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment on 17 May 1995.

13/ International Labour Conference, eighty-fifth session, 1997, Report III (Part IA), Report of the Committee of Experts on the Application of Conventions and Recommendations: General report and observations on selected countries, p. 163.

14/ The Committee had already considered this case in 1995 and 1996 and, on both occasions, submitted provisional reports to the ILO Governing Body. The Special Rapporteur referred to these in his reports E/CN.4/1997/53, para. 44, and E/CN.4/1996/60, paras. 63-64.

15/ Following the publication of the American Association for World Health report, the United States Department of State issued a communiqué stating that the 1992 Cuban Democracy Act allowed United States companies and their subsidiaries to export medicines, materials and medical equipment to Cuba, subject to the existence of agreements for monitoring their end use. Since 19962, the United States has approved 36 of the 39 applications for permits to sell medical items; 31 of these permits were for the sale of medicines, medical equipment and related materials to Cuba. In the same period, the United States issued permits for humanitarian donations of medicines and medical equipment worth over $227 million.

16/ Excerpts from the Association's report were reproduced in the Special Rapporteur's report to the General Assembly (A/52/479, annex, appendix).

17/ 105th Congress, HR 1951 IH, 18 June 1997.

18/ S 1391.

19/ Published in the Official Gazette of 21 May 1996.